

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-44212-2022
Decided on : 17.10.2022**

Vinod alias Pandit Ji

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vishal Nehra, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana
assisted by ASI Hardy Singh.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner - Vinod alias Pandit Ji, who has been booked for having committed the offences punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1986 (for brevity 'NDPS Act'), in FIR No. 290, dated 03.05.2022, registered at Police Station City Rohtak, District Rohtak, during the pendency of trial.

At the outset, learned State counsel has filed the custody certificate dated 16.10.2022 in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

While opening arguments, learned counsel for the petitioner submits that in present case recovery from the petitioner is of 45 grams of

Heroin, which is much less to the commercial quantity, i.e. 250 grams. He further submits that petitioner is involved in a false case and he is inside jail for the last more than 05 months.

Learned counsel for the petitioner further submits petitioner is a young boy aged 25 years (as per custody certificate aged 22 years) and has never been found involved in any other case of similar nature under NDPS Act and till date trial has not proceeded with its natural pace. He further submits that there are fairly arguable points during the course of the trial showing the innocence of the petitioner. He further submits that further incarceration of the petitioner is not worth in this case.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, submits that petitioner is involved in a case of serious nature, by which the society is adversely effected.

On being asked by the Court, learned State counsel submits that investigation in the matter has been completed and the charges have been framed, however, trial is yet to start and prosecution has 15 witnesses to examine before the trial Court.

I have heard learned counsel for the parties and perused the relevant material on record.

Undoubtedly, it is a case of recovery of 45 grams of Heroin, thus, applicability of Section 37 of the NDPS Act, would be a moot question before trial Court. Moreover, petitioner is not an accused in any other case of similar nature and as per custody certificate, he is inside jail for 05 months and 13 days. Otherwise also, as stated by learned State counsel, trial is yet to start and final conclusion of trial would surely take considerable time,

therefore, petitioner cannot be kept inside for indefinite period.

In view of the totality of circumstances and the factors recorded hereinabove, this Court is of the view that a chance should be given to the petitioner for improvement by granting him concession of bail. Accordingly, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

It is further made clear that if in future petitioner is found indulged in similar kind of activities, prosecution would be at liberty to seek cancellation of bail in the present case.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 17, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*